

I. INTRODUCTION

The guidelines contained in this Manual have been written to define standards and processes that should be followed in the preparation of right-of-way plans for all existing, new or modified rights-of-way and/or existing rights-of-way maintained by the Delaware Department of Transportation. Rights-of-way refer to all lands and rights owned or to be acquired by the Delaware Department of Transportation, such as Right-of-Way, Permanent Easement, Aerial Easement, Conservation Easement, Temporary Construction Easement, or any others. The manual also applies to all projects in which DelDOT is serving in an oversight role.

This introductory chapter outlines the purpose of the Manual and discusses the role of the Team Support/ROW Engineering Section at DelDOT.

Figures are used throughout this Manual to illustrate the concept being discussed. Some figures are from older plans that may not conform to the current line styles and colorization of Right-of-Way example plans. Please refer to the example plans and CADD Standards on the DRC for plan preparation and guidance.

A. Purpose

This Manual sets forth the latest design concepts and standard practices for Practitioners when preparing R/W plans for DelDOT projects. This Manual represents DelDOT's practices, techniques and procedures that will be applied in developing plans, acquisition plats, legal descriptions, and as-acquired plans for any new or modified rights-of-way and/or existing rights-of-way maintained by DelDOT. The Manual also applies to all projects in which DelDOT is serving in an oversight role, regardless of ultimate ownership of the designed improvements and rights-of-way.

DelDOT's Team Support/ROW Engineering Section is responsible for the review of all design plans, with regards to the existing right-of-way mosaic and all proposed acquisitions. Team Support considers the proposed improvements, environmental and stormwater impacts, proposed lighting, utility and signal design(s), constructability and maintenance when reviewing the R/W needs of the project. Team Support is tasked with producing or updating existing tax ditch and town agreements for each applicable project. One of the primary objectives in developing this manual is to standardize the process for developing and reviewing the existing R/W mosaic and the proposed acquisitions to maintain consistency, regardless of who develops the plans (i.e., in-house designers, consultants, etc.).

It should be noted that this manual does *not* address the design of any proposed improvements nor the processes that occur during acquisition by the Right-of-Way Section. For information on



proposed highway and bridge design, please refer to documents listed on the DelDOT Design Resource Center (DRC).

B. Mission Statement

1. *DelDOT*

DelDOT's mission is to provide excellence in transportation for every trip, in every mode, with every dollar, and for everyone. DelDOT strives to make every trip taken in Delaware safe, reliable and convenient for people and commerce. DelDOT provides safe choices for travelers in Delaware to access roads, rails, buses, airways, waterways, bike trails and walking paths. DelDOT seeks the best value for every dollar spent for the benefit of all. And finally, DelDOT engages their customers and employees with respect and courtesy as they deliver their services.

The overall goals for DelDOT are: To minimize the number of fatalities and injuries on their system; To build and maintain a nationally recognized system benefitting travelers and commerce; To provide every traveler with access and choices to the state's transportation system; To provide every customer with the best service possible; To minimize the environmental impact of the state's transportation system; To achieve financial sustainability through accuracy, transparency and accountability; and To develop and maintain a place where talented and motivated employees love to work and can be national leaders in transportation.

2. *Right-of-Way Section*

DelDOT's Right-of-Way Section employs a diverse staff responsible for ensuring compliance with policies and procedures required for the acquisition of rights-of-way, preparation of land surveys, relocation of utilities and the quality control and assurance of Right-of-Way plans on highway and bridge projects. The Right-of-Way staff is also responsible for the oversight of the Department's Land Services activities. The entire Right-of-Way staff is committed to performing their duties in a timely, effective, and customer-oriented manner for the benefit of all the citizens of Delaware.

3. *Team Support Section*

It is the Team Support Section's mission to provide engineering support to Project Development, Bridge, Planning, Right-of-Way and other sections as needed for the preparation of Right-of-Way plans that identify property needs for transportation projects.

The core responsibility of the Team Support Section is to ensure the land needed for a project is justified based on engineering need. This includes right-of-way needed for roads, bridges, transit, bicycle routes, pedestrian routes, drainage, utilities, stormwater, traffic facilities, environmental, and for maintenance. Team Support also provides customer service to the public as a resource section for information regarding DeIDOT owned right-of-way. Team Support also coordinates with Municipalities, DNREC, and Design to determine the need for Town Agreements, Railroad Agreements, and Tax Ditch agreements, and the preparation and coordination for them, if applicable.

C. Organizational Chart

The following Organizational Chart is for the Team Support/Right-of-Way Engineering Section:

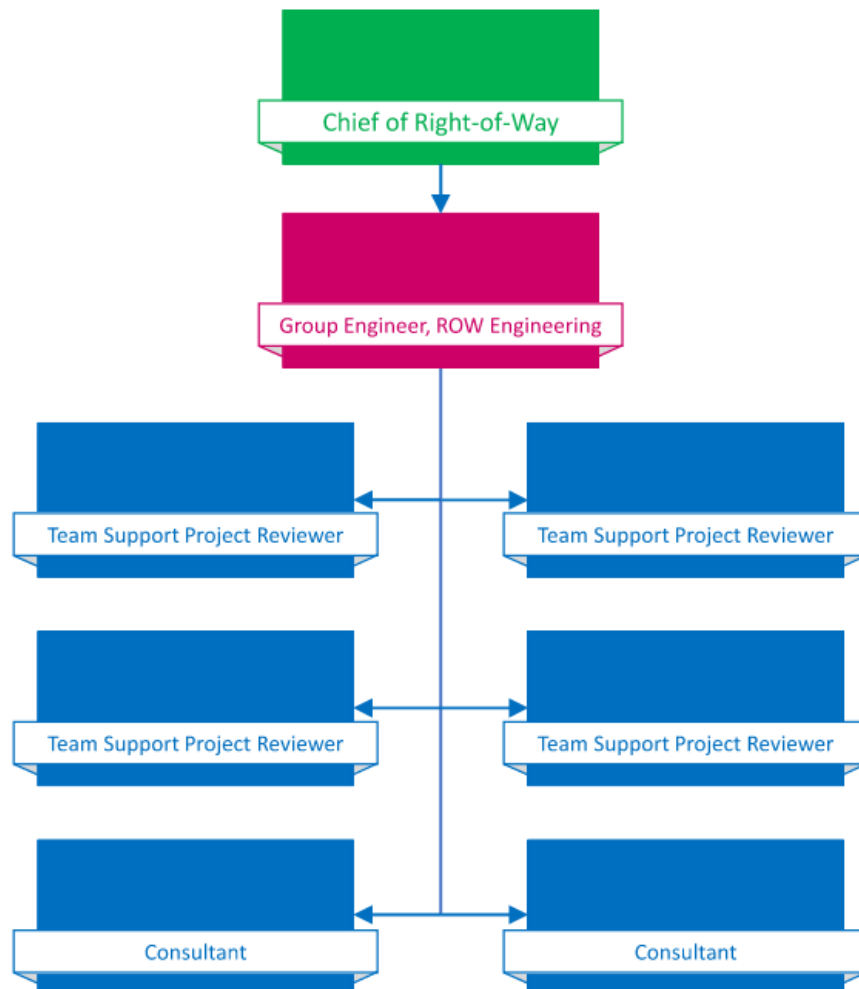


Figure 1-1 Team Support Organizational Chart



D. ROW Engineering Manual Updates

The information contained in this Manual is current at the time of publishing. It is expected that the guidance contained in this document may be updated periodically. Interim guidance may be published by DelDOT and will be made available on DelDOT's website within the Design Resource Center (DRC). Proposed changes to this Manual should be suggested using the ROW Engineering Design Directive form found on the DRC and must be approved by DelDOT's Chief of Right-of-Way.

E. Glossary of Terms/Definitions

Acquisition – the act of purchasing property in FEE simple or as an easement (private and public).

Area Occupied by Existing Easement – calculated area of a proposed acquisition that is within an existing easement on a property. Used by Appraisal Section in the valuation process of the proposed acquisitions.

As-Acquired – the actual acquisitions that were acquired by a DelDOT project versus what was called for in the plans. The actual acquisitions are recorded in the deeds within the respective County.

Blanket Easement – an easement that has an undefined boundary or location, meaning the easement applies to the entire parcel of land.

Chain Deeds – ownership records for a property in descending chronological order

Conservation Easement – a right that typically imposes restrictions on the use of a parcel or portion of a parcel.

Construction Baseline – the baseline from which the proposed construction features are established.

Deed of Record – document containing the legal conveyance or transfer of property from one party to another as recorded in the respective County.

Denial of Access – restriction that prohibits a property from having access to a State maintained road.

Dirt Road Projects – a series of design projects that took place mostly in the 1950's and 1960's where DelDOT re-aligned and upgraded much of the minor roadway system. Most of these projects purchased Permanent Easements from the property owners to establish the right-of-way corridors.

Existing Easement – a right to cross or otherwise use someone else's land for a specified purpose.

Extinguish – to remove an encumbrance on real property, i.e., road rights-of-way, etc.

Grantee – an individual or entity to whom property or a right in property is conveyed by deed.

Grantor – an individual or entity that conveys property or a right in property by deed.

King's roads/highways – roads commissioned and maintained during the colonial period of Delaware from 1656 to the establishment of the Delaware Constitution in 1792.

Limits of Construction (LOC) – the boundaries that define the area within which the contractor must confine its work.

Maintenance Road Number – the number assigned to each State owned and/or maintained road by county. The State maintains a database of a majority of all historic contracts by maintenance road number.

Monumentation – existing and/or proposed markers that distinguish a property boundary, R/W, and/or other right.

Permanent Easement (PE) – agreement granting permanent rights to an area on private and/or public property for access, maintenance, etc. Agreement is effective in perpetuity.

Plat – a boundary plan for an existing property or proposed acquisition that includes the metes and bounds for the area(s).

Practitioners – Engineers, Surveyors and/or Technicians performing duties in the preparation of DeIDOT projects.

Project Survey Report – report that details the background information and documentation that was used to establish existing R/W, baseline(s) and resolve the existing R/W mosaic. Historic contracts, found monumentation, closure issues, existing easements, etc. should be discussed.

Right-of-Way (R/W) – land, property, or an interest therein possessed by DeIDOT, or other entity acquired for, or devoted to, transportation purposes. Rights-of-way identified in the contract are presumed to belong to DeIDOT unless the contract identifies such rights-of-way as belonging to another entity. Also known as R/W in FEE Simple.

Right-of-Way Baseline – the baseline from which the existing and/or proposed right-of-way and other acquisitions are established.

Right-of-Way by 20 Year Law – see Delaware Code Title 17 §509 Highways Deemed Public Roads.

Right-of-Way Dedication – land that is granted to the State as R/W. Each R/W dedication needs to be reviewed individually to determine if the dedication was made in FEE simple or easement. If the dedication was made as an easement, the property owner retains the underlying FEE simple ownership of the land.

Right-of-Way in FEE Simple – land or property that is owned by DeIDOT as right-of-way, with full rights of ownership.

Right-of-Way by Permanent Easement (RW/PE) – existing easement acquired by DeIDOT with certain rights as specified in the recorded agreement, but the private property owner retains the underlying FEE Simple ownership.

Right-of-Way Reservation – a commitment by DeIDOT for future acquisition from an owner of any interest in a property, in exchange for an agreement by the owner to refrain from further developing the property or designated portions.

Right-of-Way by Statute Law – legislation by the Levy Courts established certain public roads, highways and bridges in the three counties in Delaware. This legislation also established the right-of-way for these facilities. In later legislation, DeIDOT was given absolute care, management and control of all county roads, highways and bridges, and therefore the corresponding rights-of-way. This statute did not establish ownership of the underlying land.

Right to Enter (RTE) – locations where DeIDOT already has the right under Delaware Code to enter onto private property to maintain, repair or reconstruct existing facilities used by the public and maintained at the public's expense.



Riparian Rights – those rights and obligations that are incidental to ownership of land adjacent to or abutting watercourses, or streams. Typically, adjacent property owners have rights to the natural centerline of the ditch or stream unless otherwise specified in the deed of record.

Tax Ditch Agreement – agreement between DelDOT and the Tax Ditch Association regarding impacts from the project.

Tax Map Parcel Number (TM#) – number assigned to a parcel of real property by the County Tax Assessor for purposes of identification and record keeping. The assigned number is unique within the County and may conform to certain formatting standards that convey basic identifying information, such as district, hundred, map, block, etc.

Temporary Construction Easement (TCE) – agreement granting temporary use of an area for a specified duration on a property for access, stockpiling, grading, etc.

Traverse – survey control network.

Vacate – to legally cede any and/or all ownership and rights to lands or other agreements.

Water Rights – DNREC has control of all subaqueous tidal lands in the State under Delaware Law Chapter 72. These lands are owned by the State and any adjoining property owners own to the mean low watermark of the tidal boundary. Note, the subaqueous tidal lands within designated Canals and other navigable waters are owned and controlled by the US Army Corps of Engineers.